



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNSD, FF

### Introduction

This adjourned hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for a monetary Order for return of the security deposit and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution. The hearing commenced on March 15, 2012, and was adjourned to ensure service to the landlord.

Both parties were present at both hearings.

The landlord confirmed receipt of Notice of the hearing, sent by registered mail on March 16, 2012.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

### Preliminary Matters

Each party and submitted evince of ran upcoming hearing as the result of the landlords' application made since the start of this hearing. They were informed that evidence is not transferred between files and that they must ensure service of all evidence to the Residential Tenancy branch and each other, as required by the Act and Rules of Procedure.

### Issue(s) to be Decided

Are the tenants entitled to return of the deposit paid?

Are the tenants entitled to filing fee costs?

### Background and Evidence

The tenancy commenced on September 11, 2010, a deposit in the sum of \$950.00 was paid at that time. The tenants vacated the unit on December 15, 2011.

Move-in and move-out condition inspection reports were complete; a copy of which was supplied as evidence.

The landlord confirmed that he received the tenant's written forwarding address as part of the condition inspection report completed on December 15, 2011. The tenants did not sign agreeing to deductions from the deposit. The landlord did not return the deposit and did not submit an application claiming against the deposit until sometime after March 15, 2012.

The tenants agreed to replace light bulbs in the sum of \$29.59; plus \$85.00 for a crack to a sink. The tenant stated that the sink was not cracked at the start of the tenancy; she not aware of the cause of the crack and believes something may have fallen off a shelf, causing the crack. The tenant obtained an estimate for the repair and wishes to allow the landlord to retain the amount suggested for repair.

The landlord confirmed he has retained the deposit and that he had the written address on December 15, 2011.

### Analysis

Section 38(1) of the Act determines that the landlord must, within 15 days after the later of the date the tenancy ends and the date the landlord received the tenant's forwarding address in writing, repay the deposit or make an application for dispute resolution claiming against the deposit. If the landlord does not make a claim against the deposit paid, section 38(6) of the Act determines that a landlord must pay the tenant double the amount of security deposit.

The amount of deposit owed to a tenant is also contingent on any dispute related to damages and the completion of move-in and move-out condition inspections. In this case there is a dispute related to damages which will be heard at a future hearing. The matters were not joined as the tenant's hearing was in progress at the time the landlord submitted his application.

The landlord received the tenant's forwarding address on December 15, 2011; he did not return the deposit or submit an application claiming against the deposit within 15 days, as required by the Act. Therefore, I find that the tenants are entitled to return of double the \$950.00 deposit paid to the landlord; less the amount offered by the tenant for light bulbs and sink repair, in the sum of \$114.59.

I find that the tenant's application has merit, and I find that the tenants are entitled to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

This decision should be read in conjunction with the interim March 15, 2012, interim decision.

### Conclusion

I find that the tenants have established a monetary claim, in the amount of \$1,950.00, which is comprised of double the deposit and \$50.00 in compensation for the filing fee paid by the tenants for this Application for Dispute Resolution; less the agreed deduction of \$114.59.

Based on these determinations I grant the tenants a monetary Order for \$1,835.41. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 15, 2012.

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Residential Tenancy Branch